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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB EX PARTE NO. 582 (Sub-No. 1)

MAJOR RAIL CONSOLIDATION PROCEDURES

Statement of
Timothy A. Wolfe, Executive Vice President
Wyandot Dolomite, Inc.

May 16, 2000



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My name is Timothy A. Wolfe and I am Executive Vice President of Wyandot Dolomite, Inc. My company is a small family owned enterprise located near Carey, Ohio. Carey has a population of about 3500 and Wyandot provides gainful employment to 56 dedicated people. Although we are small, we are an important factor in our local economy.

We have but one quarry from which we mine limestone for the construction, asphalt, concrete, and steel industries. At least seventy five percent of our production is transported by rail. We are very much aware that without adequate rail service Wyandot would soon be out of business.

We were mindful of our rail dependence when we decided upon our location in 1950. At that time Wyandot was served by New York Central, Chesapeake & Ohio RR, and the Akron Canton Youngstown RR.

We are a source of limestone and aggregate to locations in Ohio and surrounding states. This business is highly competitive and we must be able to assure our customers of reliable low cost rail service or they will look elsewhere for their needs.

In many cases freight costs exceed the non-delivered cost of our aggregate

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material. It is therefore, essential that we work effectively with our rail carriers to assure that service is reliable and efficient. Availability of responsive rail service is vital to Wyandot. We have found that to our detriment unresolved service difficulties or problems result in loss of business which may have taken us years to develop.

I previously appeared before the Board to express my concern that the STB has been increasingly unable to protect the interests of smaller companies such as Wyandot as the handful of large Class I rail carriers strive to become even larger and fewer in numbers. I emphasized my apprehension that rail carriers are beginning to avoid rail dependent businesses. That concern is even more pronounced today. Just recently the Chief Executive Officer of a Class I carrier remarked that some rail customers are going to have to decide if they really want to move their freight at certain times and in certain lanes. Frankly, if we are not able to assure customers that we can move our aggregate product by rail when and as they need delivery, we will not be able to compete and we will very shortly be out of business.

In Ex Parte 575, I stated that Wyandot has at times received less than adequate service from rail carriers and to our regret we have found that the Board lacked practical mechanisms to remedy service problems. At that time I speculated that Congress was largely at fault in our dilemma for having failed to provide the Board with sufficient staff and resources to protect shippers. I noted that Wyandot expected service problems to escalate as railroads serving Wyandot got fewer and larger. How right I was.

Wyandot actively participated in the Conrail proceeding in an effort to persuade the Board to take steps necessary to assure that we would not lose a significant part of

our business as a result of the division of Conrail lines between CSX and NS. We were one of a handful of shippers that were faced with loss of single line service. You recognized that we had a unique problem as a shipper of a low rated commodity that generally does not move in joint line service. Then you applied a band aid to a very serious dilemma. The result - we lost an important customer and almost 10% of our business to a competitor who can provide efficient single line service from origin to destination. The band aid simply did not work. So now we are awaiting our opportunity to persuade the Second Circuit Court of Appeals that the concerns we raised were far more serious than you thought at the time.

And here I am back again to raise my concerns as a small rail dependent shipper in this proceeding. Yes, we are still in business, albeit at significantly lesser volume as a result of the Conrail decision. I perceive our future as far more tenuous in the shadow of the next round of rail mergers and consolidations now looming on the horizon.

Not too many years ago we could reasonably expect to solve service problems on a one-to-one basis with the rail carriers that serve us. However, as the number of Class I's diminish, we have found it increasingly difficult to find anyone willing to listen to our problems let alone to work with us in finding acceptable solutions. We cannot have growth or stability in the aggregate business if our markets are continually reduced or undermined as a result of mergers and line sales by the STB. For all the frustrations to date I determined that it is important for us to try once more to draw the Board's attention to the plight of Wyandot and small shippers. We still need practical avenues of relief both before and after mergers take place.

I do applaud the Board for recognizing that it is time for a searching review and

revision of existing policies regarding mergers and consolidations. Since there are very few remaining possibilities of major rail mergers it is all the more important that the Board's policies and procedures promote competitive rail service that is responsive to the needs of small shippers such as ourselves.

I understand there is speculation that some businesses may have to move as a result of ongoing changes in the rail industry. For most businesses that would be an extremely difficult and expensive proposition. For us that is a practical impossibility as our quarry just won't move. Thus, it is essential that we have adequate rail transportation at our existing facility.

In regard to changes in existing policy, we strongly urge the Board to reconsider and change its existing view that reductions from 3 to 2 serving rail carriers is not deleterious to adequate competition. Prior to 1990, Wyandot was served by three Class I carriers, Conrail, CSX, and Norfolk Southern RR's. As a result, 10 years later, we are now served only by CSX and the Wheeling & Lake Erie Railway, a regional. Therefore, we have gone from three Class I's to one Class I and a regional. Since last June the quality of service has stymied our growth and competitive position and has reduced the value of our property as our rail service has deteriorated.

We appreciate the service we receive from our regional carrier but in truth it lacks the resources to act as an effective competitive spur to CSX, one need only look at the trends in higher gross weights. As a result we are largely taken for granted or neglected at the whim of the Class I's. We note that the Federal Trade Commission recently rejected the proposed merger of Office Depot and Staples based on the concern that the smaller

Office Max would be unable to provide sufficient competition to a combined Office Depot and Staple as deemed essential in the public interest. I urge the Board to step back and recognize the wisdom of FTC's analysis, that a merger leaving behind only two competitors of disparate financial strength and resources may well not be in the public interest. The Board should discard its 3-2 policy and replace it with a searching analysis on an individual basis.

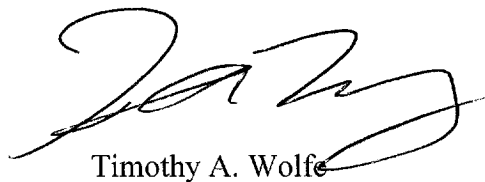
The Board has expressed concern as to the recent drop in the stock prices of Class I carriers and their ability to access equity and debt markets for funds necessary to make technological changes and to maintain their physical plants. As a rail dependent shipper Wyandot appreciates the importance of financially sound Class I carriers. We are even more concerned that regional and short line carriers must have access to adequate funds to maintain and improve their plants. For the most part regional and short line carriers are not publicly held and must depend on borrowed funds to acquire needed equipment and maintain their plants. Wyandot urges the STB to carefully weigh the financial and service problems faced by regional and short haul carriers when considering any future merger or consolidation proposals. Viability of these carriers is of vital interest to shippers everywhere. We urge the Board to be clear and forthcoming in providing adequately for these carriers.

I have previously raised my service concerns regarding accessibility and responsiveness of the Board to merger related service problems and other concerns of small shippers. For the most part, STB procedures are much too costly and ponderous for small shippers. Our practical service problems simply do not lend themselves to costly protracted litigation's.

I am aware that STB adopted procedures for arbitration of certain disputes subject to the Board's jurisdiction in Ex Parte No. 560 over two years ago. However, to my knowledge the Board has yet to publish a list of arbitrators and the procedures have yet to be activated. The arbitration process has the promise of fairly prompt and inexpensive resolution of issues. I urge the Board to activate the Ex Parte 560 procedures as expeditiously as possible and to seriously consider making that process mandatory in as many instances as possible. I also urge the Board to consider expanding the range of issues that are subject to resolution by arbitration. We believe that such a change would do much to facilitate real time resolution of practical problems.

Finally, I want to restate my concern that the Board must not be an ivory tower. There simply is no substitute for viewing problems and issues first hand. We strongly support efforts to provide the Board with sufficient staff and resources to investigate problems first hand and to monitor directly the responsiveness of rail transportation service in the public interest.

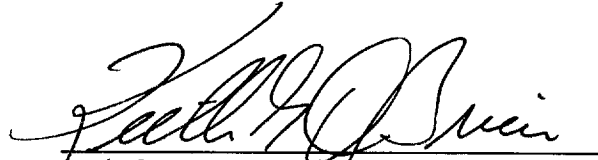
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Timothy A. Wolfe', with a stylized, cursive script.

Timothy A. Wolfe

CERTIFICATE OF SERVICE

I hereby certify that I have served the forgoing on behalf of Wyandot Dolomite, Inc. to all known parties of record on the Service List on this the 16th day of May, 2000.

A handwritten signature in black ink, appearing to read "Keith G. O'Brien", is written over a horizontal line.

Keith G. O'Brien

Counsel for:

Wyandot Dolomite, Inc.